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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

KONAMI GAMING, INC., a Nevada
corporation,

Plaintiff,

v.

MARKS STUDIOS, LLC d/b/a Gimmie
Games, a Georgia limited liability company,

Defendant.

CASE NO.: 2:14-cv-01485-JAD-CWH

Honorable Jennifer A. Dorsey
Magistrate Judge Carl W. Hoffman

**STIPULATION AND [PROPOSED]
ORDER TO MODIFY SCHEDULING
ORDER
(FIRST REQUEST)**

Pursuant to Local Rules 6-1 and 26-4. Plaintiff Konami Gaming, Inc. (“Konami” or “Plaintiff”) and Defendant Marks Studios, LLC d/b/a Gimmie Games (“Marks Studios” or Defendant”) hereby stipulate as follows:

WHEREAS, the parties to this action filed a proposed joint Discovery Plan and Scheduling Order (the “Scheduling Order”) on December 30, 2014, which included a *Markman* schedule with proposed dates, pursuant to Local rules 16.1-6 to 16.1-18 (*docket no. 24*);

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1 **WHEREAS**, the Scheduling Order provided that Plaintiff Konami Gaming, Inc.
2 (“Konami”) would serve its Disclosure of Asserted Claims and Infringement Contentions
3 (“Claims and Contentions”), along with supporting documents, by January 14, 2015 (*docket no.*
4 24.);

5 **WHEREAS**, the Court so ordered the Scheduling Order on January 27, 2015 (*docket no.*
6 31);

7 **WHEREAS**, to date, the Plaintiff and Defendants have made their Initial Disclosures
8 pursuant to Federal Rule of Civil Procedure 26(a)(1) and have filed the Stipulated Protective
9 Order required under Local Rule 16.1-4;

10 **WHEREAS**, pursuant to the Scheduling Order, discovery is partially stayed until the
11 Court issues a *Markman* order on claim construction. Until that time, the only permitted
12 discovery: (a) the substantive disclosures included in section C (“Markman schedule”) of the
13 Scheduling Order; (b) Defendant’s deposition of the inventor(s), (c) Plaintiff’s deposition of a
14 technical person knowledgeable concerning operation of Defendant’s games, (d) Plaintiff’s and
15 Defendant’s discovery relating to claim construction and the validity of the patents in suit, and
16 (e) expert discovery;

17 **WHEREAS**, on January 14, 2015, Plaintiff made its Disclosure of Asserted Claims and
18 Infringement Contentions pursuant to LR 16.1-6, Defendant is challenging the sufficiency of
19 certain disclosures with Local Rule 16.1-6(a) and (d), and the production of documents under
20 Local Rule 16.1-7,;

21 **WHEREAS**, while Plaintiff disagrees with Defendant’s challenges, in the interest of
22 judicial economy and for convenience of the Parties Plaintiff has agreed to supplement its
23 Disclosure of Asserted Claims and Infringement Contentions pursuant to LR 16.1-6 and further
24 to produce the documents under Local Rule 16.1-7, for which has taken additional time;

25 **WHEREAS**, the parties have agreed to amend the *Markman* schedule to provide at least
26 an additional four weeks from the current schedule for Defendant to file its Initial Disclosure of
27 Non-Infringement, Invalidity and Unenforceability Contentions due to the delays in resolving the
28 disclosure issues and to allow Defendant sufficient time to respond;

WHEREAS, this is the parties' first request to modify the Scheduling Order.

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the named parties hereto, that the *Markman* schedule in the Scheduling Order will be amended as follows solely as to the dates for (1) Disclosure of Asserted Claims and Infringement Contentions - LR 16.1-6, (2) Initial Disclosure of Non-Infringement, Invalidity and Unenforceability Contentions - LR 16.1-8, and (3) Response to Initial Non-Infringement, Invalidity and Unenforceability Contentions - LR 16.1-10:

Event	Basis	Proposed Date
Disclosure of Asserted Claims and Infringement Contentions	LR 16.1-6	January 14, 2015 Supplemental Disclosure Date: February 9, 2015
Initial Disclosure of Non-Infringement, Invalidity and Unenforceability Contentions	LR 16.1-8	March 26, 2015
Response to Initial Non-Infringement, Invalidity and Unenforceability Contentions	LR 16.1-10	April 9, 2015
Exchange of Proposed Terms for Claim Construction	LR 16.1-13	April 28, 2015
Exchange of Preliminary Claim Construction and Extrinsic Evidence	LR 16.1-14	May 28, 2015
Parties to Meet and Confer regarding terms requiring construction and proposed meaning of the terms	LR 16.1-14	June 1-8, 2015
Joint Claim Construction Statement	LR 16.1-15	June 5, 2015
Opening Claim Construction Brief	LR 16.1-16	July 13, 2015
Responsive Claim Construction Brief	LR 16.1-16	July 27, 2015
Reply Claim Construction Brief	LR 16.1-16	August 3, 2015

IT IS FURTHER STIPULATED AND AGREED that in no event shall the return date for Defendant's Initial Disclosure of Non-Infringement, Invalidity and Unenforceability Contentions be fewer than the 45 days after completed service of documents in support of Konami's Claims and Contentions, as afforded under LR 16.1-8;

1 **IT IS FURTHER STIPULATED AND AGREED** that the Discovery plan remains
2 unchanged and that this Stipulation is made in good faith and not for the purpose of delay.

3 **IT IS SO STIPULATED THROUGH COUNSEL OF RECORD,**

4 Dated: February 6, 2015

Dated: February 6, 2015

5 By: /s/ Nicholas J. Santoro

By: /s/ Kimberly P. Stein

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Attorneys for Plaintiff Konami Gaming, Inc.

Attorneys for Defendant Marks Studios, LLC

21 **ORDER**

22 **PURSUANT TO THE STIPULATION, IT IS SO ORDERED:**

23 Dated: February 9, 2015

24
25 
26 Carl W. Hoffman
27 United States Magistrate Judge
28

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